

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

1) UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
-vs-)	CIV-20- <u>930-R</u>
)	
2) \$621,570.00 IN UNITED STATES)	
CURRENCY,)	
)	
Defendant.)	

VERIFIED COMPLAINT FOR FORFEITURE *IN REM*

The United States of America brings this complaint and, in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure, alleges the following:

NATURE OF THE ACTION

1. Plaintiff, United States of America, alleges upon information and belief for this *in rem* forfeiture action, brought against United States currency in the amount of \$621,570.00 (“Defendant Currency”), that Defendant Currency is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6) for violations of 21 U.S.C. §§ 841 and 846.

THE DEFENDANT *IN REM*

2. Defendant Currency consists of \$621,570.00 in United States currency seized by the Oklahoma Highway Patrol (OHP) during a traffic stop near mile marker 59, in Clinton,

Oklahoma, on November 8, 2019. The traffic stop occurred in the Western District of Oklahoma.

3. On November 22, 2019, Defendant Currency was adopted by the Drug Enforcement Administration (DEA), and is currently in the custody of the United States Marshals Service, where it shall remain subject to this Court's jurisdiction during the pendency of this action.

4. On January 16, 2020, Victor Ngo, d/b/a Cannabless filed a claim of ownership to Defendant Currency with DEA to contest the administrative forfeiture of Defendant Currency *in rem*.

JURISDICTION AND VENUE

5. Plaintiff brings this action *in rem* to forfeit and condemn Defendant Currency. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and the Court has jurisdiction over a civil forfeiture action under 28 U.S.C. § 1355(a).

6. This Court has *in rem* jurisdiction over Defendant Currency according to 28 U.S.C. § 1355(b), providing that a forfeiture action or proceeding may be brought in the district in which any of the acts or omissions giving rise to the forfeiture occurred.

7. Venue is proper in this district pursuant to 21 U.S.C. § 881(j) and 28 U.S.C. § 1355(b)(1) because the acts or omissions giving rise to the forfeiture occurred in this district. Furthermore, venue is also proper here pursuant to 28 U.S.C. § 1395, because the property is located in this district.

BASIS FOR FORFEITURE

8. The United States alleges that Defendant Currency is subject to forfeiture to the United States because it is the proceeds of criminal activity. Specifically, the United States alleges that Defendant Currency is forfeitable to the United States according to 21 U.S.C. § 881(a)(6) for violations of 21 U.S.C §§ 841 and 846.

9. Title 21, United States Code, Section 881(a)(6) provides the following shall be subject to forfeiture to the United States and no property right shall exist in them:

All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of this subchapter, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of this subchapter.

10. Title 21, United States Code, Section 841 makes it a crime for any person to knowingly possess a controlled substance with intent to distribute that controlled substance.

11. Title 21, United States Code, Section 846 makes it a crime to conspire to violate a provision of Title 21. That is, Section 846 provides that any person who attempts or conspires to commit any offense defined in that subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

FACTS

12. On November 8, 2019 Trooper Michael Eckhardt with the OHP was conducting commercial motor vehicle (CMV) stops and inspections off of Interstate 40 in Custer County, Oklahoma. While on patrol, Trooper Eckhardt observed a white box van with a California registration traveling in the west bound lanes. Trooper Eckhardt noticed that the van was a dually vehicle and lacked any markings on it. To conduct a CMV inspection of the van, Trooper Eckhardt stopped it near the 59 mile marker area.

13. The van had a Nader sticker indicating the vehicle's Gross Vehicle Weight Rating as 11,500 pounds.

14. Trooper Eckhardt approached the vehicle and located the driver, Stephanie Reupena and the front passenger, Job Tuimavave. Ms. Reupena did not have any form of identification, including driver's license, when asked by Trooper Eckhardt.

15. Ms. Reupena stated that she was headed to California and that she was in the process of moving to Oklahoma City.

16. Trooper Eckhardt could smell the strong odor of raw marijuana emitting from the vehicle.

17. Trooper Eckhardt asked Ms. Reupena to join him in his patrol vehicle to continue the CMV inspection. While inside Trooper Eckhardt's patrol vehicle, he noticed that Ms. Reupena appeared nervous. Her voice was quivering, she was taking deep breathes, she seemed uncomfortable, and she would not look at Trooper Eckhardt.

18. Ms. Reupena lacked several documents required to operate a CMV. During the

inspection, Trooper Eckhardt noted the following violations: No Record of Duty Status When Required (logs); Carrier name and/or United States Department of Transportation number not displayed as required; Operating without required operating authority; No medical certificate in driver's possession; Operating a CMV without proof of periodic inspection; Failure to carry a bill of lading; Failure to have a valid driver's license; Driver on duty and in possession of illegal drugs.

19. Ms. Reupena only had a vehicle registration with her at the time of the traffic stop.

20. Trooper Eckhardt noted the violations and knew at this point Ms. Reupena would be prohibited from continuing to operate a CMV, according to 49 C.F.R. § 395.1 *et seq.*, for at least 10 hours.

21. Ms. Reupena told Trooper Eckhardt that she had delivered four safes to the Oklahoma City metro area from California. She stated that she was transporting one of the four safes back to California. She told Trooper Eckhardt that she was transporting the safes back and forth. The safes were not purchased in Oklahoma City. Ms. Reupena said that she did not know why the safe she was transporting was not left in Oklahoma City. Ms. Reupena claimed the safe was going to Santa Ana, California.

22. Ms. Reupena claimed to work for Modesto Transports. However, Ms. Reupena said that she would be transporting personal items back from California to move to Oklahoma City. Ms. Reupena said that she thinks the owners of the safes will be opening "five for ten," similar to a dollar store, stores to sell "pro clothes."

23. Trooper Eckhardt explained to Ms. Reupena that he could smell marijuana in the vehicle. In response, Ms. Reupena said she had a THC vape cartridge in her bag and had smoked marijuana before leaving Oklahoma City.

24. Ms. Reupena told Trooper Eckhardt that neither she nor Mr. Tuimavave, the passenger, had an Oklahoma Medical Marijuana card.

25. Trooper Eckhardt searched the front cab of the vehicle based on smelling marijuana, Ms. Reupena's statements, and the CMV document violations. Inside a bag in the cab of the vehicle, Trooper Eckhardt found a marijuana roach, a small amount of marijuana, and a large black, vacuum-sealed package. Based on the feel of the package, Trooper Eckhardt believed it might contain currency. Based on his training and experience, the manner in which the funds were packaged made Trooper Eckhardt believe they might be proceeds of illegal drug distribution.

26. When Trooper Eckhardt asked Ms. Reupena about the possible currency he had found, she stated that she had about \$15,000.00 to \$20,000.00 and it was to purchase a vehicle. When Trooper Eckhardt opened the package and conducted a hand count, he determined that Ms. Reupena had approximately \$46,000.00 with her in the front cab of the vehicle.

27. When Trooper Eckhardt spoke to Mr. Tuimavave, he told Trooper Eckhardt that he was a marijuana consultant and master marijuana grower. He stated that he had only been in Oklahoma for a few months and did not know his address.

28. When Trooper Eckhardt transitioned his search to the rear cargo area of the vehicle, he could smell marijuana.

29. When Trooper Eckhardt opened the cargo area, he discovered a single, large box, approximately six feet tall that had been clearly opened and resealed.

30. The vehicle was moved to the OHP Troop Headquarters in Clinton, Oklahoma, to continue the investigation.

31. At Trooper Eckhardt's request, Weatherford Police Officers Laura Cox and Kendrick Johnson arrived with their K-9 Unit, Falco. Falco alerted to the safe in the cargo area of the vehicle.

32. When investigators tried to open the safe they discovered that the default factory code had been changed.

33. When investigators gained entry to the safe they found eight black, vacuum-sealed packages similar to the package found in Ms. Reupena's bag. Inside the packages investigators found United States currency, most of which was bundled with unmarked bank straps. The total amount of currency discovered was \$621,570.00.

34. As a result of the foregoing, Defendant Currency is liable to condemnation and to forfeiture to the United States in accordance with 21 U.S.C. § 881(a)(6) for violations of 21 U.S.C. §§ 841 and 846.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that notice of this action be given to all persons who reasonably appear to be potential claimants of interests in Defendant Currency; that Defendant Currency be forfeited to the United States; that Plaintiff be awarded its costs and disbursements in this action; and the Court order any such other and further relief as this Court deems proper and just.

Respectfully submitted,

TIMOTHY J. DOWNING
United States Attorney

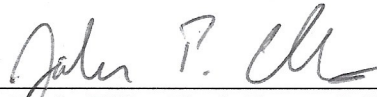
/s/ *Wilson D. McGarry*
WILSON D. MCGARRY
Assistant U.S. Attorney
Oklahoma Bar No. 31146
210 Park Ave., Suite 400
Oklahoma City, OK 73102
Telephone: (405) 553-8700
E-mail: wilson.mcgarry@usdoj.gov

VERIFICATION

I, John Parker Ellis, hereby verify and declare under penalty of perjury that I am a Task Force Officer with the Drug Enforcement Administration, that I have read the foregoing Verified Complaint of Forfeiture *In Rem* and know the contents thereof, and that the matters contained in the Verified Complaint are true of my own knowledge, except those matters therein stated to be alleged on information and belief and as to those matters, I believe them to be true. The sources of my knowledge and information and the grounds of my belief are the official files and records of the United States, information supplied to me by other law enforcement officers, as well as my investigation of this case, together with others.

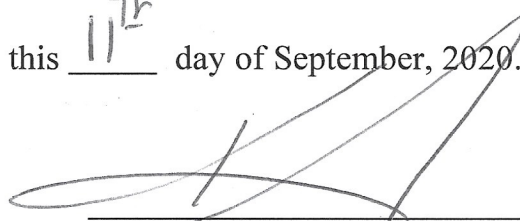
I hereby verify and declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on September 11, 2020.



John Park Ellis, Task Force Office
Drug Enforcement Administration

Subscribed and sworn to before me this 11th day of September, 2020.



NOTARY PUBLIC

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Wilson D. McGarry, Assistant U.S. Attorney
U.S. Attorney's Office, 210 Park Ave., Ste 400, Oklahoma City, OK
73102; Phone: 405.553.8700

DEFENDANTS

\$621,570 in United States Currency

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Clay T. Curtis
809 NW 36th Street
Oklahoma City, OK 73118 - 405-605-6718 Office

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation - Transfer
☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title 21 U.S.C. § 881(a)(6), for violations of 21 U.S.C. §§ 841 and 846

Brief description of cause:

Defendant Property constitutes or is derived from drug proceeds

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$
UNDER RULE 23, F.R.Cv.P.

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

09/14/2020

SIGNATURE OF ATTORNEY OF RECORD

s/Wilson D. McGarry

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

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